

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JACQUES SMITH,

Plaintiff,

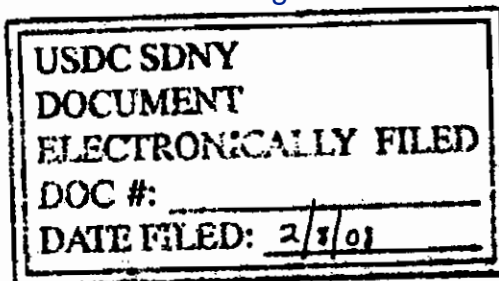
- against -

THE BANK OF NEW YORK,

Defendant.

- - - - -x

CHIN, D.J.



ORDER

07 Civ. 8546 (DC)

The Court held a pre-trial conference in this case on October 26, 2007. At the conference I set a schedule for plaintiff's motion for collective and class action certification. Plaintiff was to make his motion by January 11, 2008; defendant's opposition was due by February 8, 2008; and plaintiff's reply was due by February 19, 2008. Plaintiff missed the deadline for filing the motion and did not request an extension. I then received a letter from defense counsel dated January 17, 2008, requesting that this action be treated as a single plaintiff case.

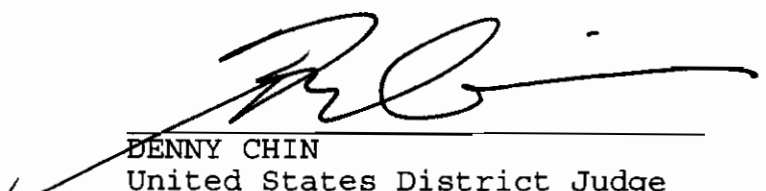
Plaintiff's counsel previously failed to comply with the deadline I set to file a motion for collective and class action certification in the related case, Geraldine Smalls v. Bank of New York, 05 Civ. 8474 (DC). On May 2, 2007, I ruled that because plaintiff failed to file the motion on time the Smalls case would be treated as a single plaintiff action. Therefore, this is the second time plaintiff's counsel has defaulted. I am unpersuaded by plaintiff's counsel's undated

letter -- which I received January 22, 2008 -- claiming that he did not understand that a firm deadline for filing the motion had been set.

Accordingly, this case will be treated as an individual action going forward and the caption is hereby amended to include plaintiff Jacques Smith in his individual capacity only.

SO ORDERED.

Dated: New York, New York
February 8, 2008



DENNY CHIN

United States District Judge